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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,568	11/16/2001	John Wasserbauer	45921/PAN/C715	3587

3017 7590 03/10/2004

BARLOW, JOSEPHS & HOLMES, LTD.  
101 DYER STREET  
5TH FLOOR  
PROVIDENCE, RI 02903

EXAMINER

SCHILLINGER, LAURA M

ART UNIT	PAPER NUMBER
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2813

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/991,568

Applicant(s)

WASSERBAUER ET AL.

Examiner

Laura M Schillinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The reply filed on 11/24/03 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): As explained in prior prosecution, the amendment to the claims in response to the non-final office action is considered to be non-responsive because the amendment canceled all previously pending claims and added a set of new claims which as substantially distinct from that of the original. Such an amendment is not permitted because as 37 C.F.R. § 1.145 explains, "if after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed." MPEP § 819 dictates, "The general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter; see also § 821.03 which explains that an amendment canceling the originally elected claims and adding new claims drawn to a nonelected invention is nonresponsive.

For purposes of clarity the Examiner refers to the originally pending claims to show how the newly added claims are distinct and independent from the original:

Original claim 1 : A method burning a wafer having an insulator layer formed on one surface and a plurality of active device, each device having a first and second electrode, comprising:

forming a conductive interconnect layer adjacent said insulator layer, wherein said conductive interconnect layer electrically couples together at least the first electrode least a portion of the devices.

Original claim 2: The method of claim 1 further comprising coupling said wafer test apparatus, coupling at least one test probe to layer and simultaneously applying a predetermined power to each of the active devices said portion of the active devices.

Original claim 3: The method of claim 2 wherein applying a predetermined power to each of the active devices in the said portion of the active devices comprises driving each of the active devices in devices with a substantially uniform current or voltage.

Original claim 4. The method of claim 1 further comprising processing said conductive interconnect layer to form one or more common contact traces, wherein said one or more common contact traces electrically couple together at least the first electrode of said portion of the active devices.

In stark contrast, the newly added claims do not require any of the previously required limitations, for instance, there is no limitation for forming a conductive interconnect layer adjacent said insulator layer, wherein said conductive interconnect layer electrically couples together at least the first electrode least a portion of the devices, as cited by the originally elected claim 1. Furthermore there is no pending claim language pertaining coupling said wafer test apparatus, coupling at least one test probe to layer and simultaneously applying a predetermined power to each of the active devices said portion of the active devices. Applicant's newly added

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subject matter pertains to surface emitting laser devices which were not recited by the originally pending claims. The newly added claims are recited as follows:

30. A method for burning in a wafer having a plurality of active semiconductor surface emitting laser devices, each of said laser devices having a first electrode on said first side of said wafer and a second electrode on a second side of said wafer said wafer further having an insulating layer formed on a first side of said wafer over said first electrodes, said method comprising the steps of:

selectively forming vias through said insulating layer to expose said first electrode of at least two of said plurality of laser devices;

depositing a temporary electrically conductive interconnect layer over said insulating layer whereby first electrode of said plurality of active laser devices layer are coupled together to provided with a common electrical contact;

applying a predetermined power to said interconnect layer whereby said predetermined power is simultaneously applied to said first electrode of said at least two of said plurality of active laser devices;

identifying defective ones of said plurality of active laser devices; and

completely removing said insulating layer and temporary interconnect layer.

Claim 31. The method of claim 30, wherein the step of depositing said interconnect layer further comprises the step of processing said interconnect layer to form one or more common contact

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traces, wherein said one or more contact traces electrically couple together said first electrode of said at least two of said plurality of active ??

[Applicant should note that the newly pending claim language contains multiple grammatical errors and that claim 31 does not form a complete sentence as required. ]

The critical feature of surface emitting laser devices recited in the newly submitted claims did not exist in the originally pending claims. The amendment cannot be entered because it pertains to a separate and distinct invention from that of the original claims due to these distinctions.

See 37 CFR 1.111. Applicant is invited to contact the Examiner to discuss any questions and further is advised that a third non-responsive amendment will result in an ABANDONMENT.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M Schillinger whose telephone number is 571-272-1697. The examiner can normally be reached on M-T, R-F 7:00-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl W Whitehead, Jr. can be reached on 571-272-1702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMS

3/3/04

  
CARL WHITEHEAD, JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800